

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P04959000	<b>FOR FURTHER ACTION</b>		See item 4 below
International application No. PCT/JP2004/012754	International filing date ( <i>day/month/year</i> ) 17 August 2004 (17.08.2004)	Priority date ( <i>day/month/year</i> ) 21 August 2003 (21.08.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant EARTH CHEMICAL CO., LTD.			

<p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																
<p>3. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> <p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).</p>	<input checked="" type="checkbox"/> Box No. I	Basis of the report	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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	Date of issuance of this report 01 May 2006 (01.05.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 740 14 35	Authorized officer  Masashi Honda  Telephone No. +41 22 338 70 10

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

**TRANSLATION**  
**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year)	<b>19.10.2004</b>
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Applicant's or agent's file reference <b>P04959000</b>		<b>FOR FURTHER ACTION</b> See paragraph 2 below	
International application No. <b>PCT/JP2004/012754</b>	International filing date (day/month/year) <b>17.08.2004</b>	Priority date (day/month/year) <b>21.08.2003</b>	
International Patent Classification (IPC) or both national classification and IPC <b>A01N53/08, D06M13/228</b>			
Applicant <b>EARTH CHEMICAL CO., LTD.</b>			

**1. This opinion contains indications relating to the following items:**

- |                                     |              |                                                                                                                                                                      |
|-------------------------------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | Box No. I    | Basis of the opinion                                                                                                                                                 |
| <input type="checkbox"/>            | Box No. II   | Priority                                                                                                                                                             |
| <input type="checkbox"/>            | Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability                                                                     |
| <input type="checkbox"/>            | Box No. IV   | Lack of unity of invention                                                                                                                                           |
| <input checked="" type="checkbox"/> | Box No. V    | Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/>            | Box No. VI   | Certain documents cited                                                                                                                                              |
| <input type="checkbox"/>            | Box No. VII  | Certain defects in the international application                                                                                                                     |
| <input type="checkbox"/>            | Box No. VIII | Certain observations on the international application                                                                                                                |

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/JP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/JP2004/012754

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language  
\_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/JP2004/012754

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>5, 8</u>	YES
	Claims	<u>1-4, 6, 7, 9</u>	NO
Inventive step (IS)	Claims	<u></u>	YES
	Claims	<u>1-9</u>	NO
Industrial applicability (IA)	Claims	<u>1-9</u>	YES
	Claims	<u></u>	NO

2. Citations and explanations:

Document 1: JP 8-296171 A (Fukusuke Corporation), 12  
November 1996

Document 2: JP 2003-105674 A (Nicca Chemical Co.), 9  
April 2003

Document 1 (claims; paragraphs [0012], [0021] and [0025]) indicates that an insect-proofing solution obtained by mixing together an insect-proofing component such as phenothrin, an emulsifier such as a non-ionic surfactant or a solubilizing agent is used to treat fibers, and the insect-proofing component is retained on said fibers; and that simultaneously or subsequent to the treatment with the aforementioned insect-proofing solution, said fibers are treated with a binder such as polyacrylate. Phenothrin is the same substance as the 3-phenoxybenzyl chrysanthemate which is the ingredient for inducing the activity of disturbing harmful insect behaviour that is used in the embodiments of this application, therefore the inventions set forth in claims 1 to 4, 6, 7 and 9 lack novelty and do not involve an inventive step.

Moreover, the feature wherein a substance "induces activity of disturbing harmful insect behavior" in the

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/JP2004/012754

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

invention of this application merely discloses the function normally possessed by insect-proofing components, therefore this feature does not constitute a difference.

Document 2 (claims; paragraphs [0001], [0004], [0007] and [0010]) indicates that in order to provide a fiber product having durable antibacterial properties, a fiber product is treated with an antibacterial component, polycarboxylic acid such as polyacrylate, and a cross-linking agent such as a carbodiimide cross-linking agent; that the treatment agent is dissolved in water and used dispersed or in an emulsion; and that a non-ionic surfactant may be used as the emulsifying agent. It would therefore be easy for a person skilled in the art to have the binder set forth in document 1 contain a carbodiimide cross-linking agent in order to improve the ability of the fiber set forth in document 1 to retain the insect-proofing component.

Therefore the inventions set forth in claims 5 and 8 do not involve an inventive step.

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The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland  Facsimile No. +41 22 740 14 35	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 100%;">Date of issuance of this report <b>21 February 2006 (21.02.2006)</b></td> </tr> <tr> <td>Authorized officer  <div style="text-align: center; font-weight: bold; font-size: 1.2em;">Masashi Honda</div></td> </tr> <tr> <td>Telephone No. +41 22 338 70 10</td> </tr> </table>	Date of issuance of this report <b>21 February 2006 (21.02.2006)</b>	Authorized officer  <div style="text-align: center; font-weight: bold; font-size: 1.2em;">Masashi Honda</div>	Telephone No. +41 22 338 70 10
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Telephone No. +41 22 338 70 10				

特許協力条約

発信人 日本国特許庁（国際調査機関）

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REC'D 21 OCT 2004

WIPO

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国際調査機関の見解書  
(法施行規則第40条の2)  
[PCT規則43の2.1]

発送日  
(日.月.年)

19.10.2004

出願人又は代理人

の書類記号

P 04959000

今後の手続きについては、下記2を参照すること。

国際出願番号

PCT/J P 2004/012754

国際出願日

(日.月.年)

17.08.2004

優先日

(日.月.年)

21.08.2003

国際特許分類 (IPC)

Int. Cl. A01N53/08, D06M13/228

出願人 (氏名又は名称)

アース製菓株式会社

1. この見解書は次の内容を含む。

☒ 第I欄 見解の基礎

☐ 第II欄 優先権

☐ 第III欄 新規性、進歩性又は産業上の利用可能性についての見解の不作成

☐ 第IV欄 発明の単一性の欠如

☒ 第V欄 PCT規則43の2.1(a)(i)に規定する新規性、進歩性又は産業上の利用可能性についての見解、それを裏付けるための文献及び説明

☐ 第VI欄 ある種の引用文献

☐ 第VII欄 国際出願の不備

☐ 第VIII欄 国際出願に対する意見

2. 今後の手続き

国際予備審査の請求がされた場合は、出願人がこの国際調査機関とは異なる国際予備審査機関を選択し、かつ、その国際予備審査機関がPCT規則66.1の2(b)の規定に基づいて国際調査機関の見解書を国際予備審査機関の見解書とみなさない旨を国際事務局に通知していた場合を除いて、この見解書は国際予備審査機関の最初の見解書とみなされる。

この見解書が上記のように国際予備審査機関の見解書とみなされる場合、様式PCT/ISA/220を送付した日から3月又は優先日から22月のうちいずれか遅く満了する期限が経過するまでに、出願人は国際予備審査機関に、適当な場合は補正書とともに、答弁書を提出することができる。

さらなる選択肢は、様式PCT/ISA/220を参照すること。

3. さらなる詳細は、様式PCT/ISA/220の備考を参照すること。

見解書を作成した日

28.09.2004

名称及びあて先

日本国特許庁 (ISA/J P)

郵便番号100-8915

東京都千代田区霞が関三丁目4番3号

特許庁審査官 (権限のある職員)

爾見 武志

4H

9547

電話番号 03-3581-1101 内線 3443

様式PCT/ISA/237 (表紙) (2004年1月)

## 第 I 欄 見解の基礎

1. この見解書は、下記に示す場合を除くほか、国際出願の言語を基礎として作成された。

- ☐ この見解書は、\_\_\_\_\_ 語による翻訳文を基礎として作成した。  
それは国際調査のために提出された P C T 規則 12.3 及び 23.1(b) にいう翻訳文の言語である。

2. この国際出願で開示されかつ請求の範囲に係る発明に不可欠なヌクレオチド又はアミノ酸配列に関して、以下に基づき見解書を作成した。

- a. タイプ ☐ 配列表  
☐ 配列表に関連するテーブル
- b. フォーマット ☐ 書面  
☐ コンピュータ読み取り可能な形式
- c. 提出時期 ☐ 出願時の国際出願に含まれる  
☐ この国際出願と共にコンピュータ読み取り可能な形式により提出された  
☐ 出願後に、調査のために、この国際調査機関に提出された

3. ☐ さらに、配列表又は配列表に関連するテーブルを提出した場合に、出願後に提出した配列若しくは追加して提出した配列が出願時に提出した配列と同一である旨、又は、出願時の開示を超える事項を含まない旨の陳述書の提出があった。

4. 補足意見：



## 第V欄 新規性、進歩性又は産業上の利用可能性についてのPCT規則43の2.1(a)(i)に定める見解、それを裏付ける文献及び説明

## 1. 見解

新規性 (N)	請求の範囲 5, 8	有 無
	請求の範囲 1-4, 6, 7, 9	
進歩性 (IS)	請求の範囲	有 無
	請求の範囲 1-9	
産業上の利用可能性 (IA)	請求の範囲 1-9	有 無
	請求の範囲	

## 2. 文献及び説明

文献1 : JP 8-296171 A (福助株式会社) 1996. 11. 12

文献2 : JP 2003-105674 A (日華化学株式会社) 2003. 04. 09

文献1 (特許請求の範囲, [0012], [0021], [0025]) には、フェノトリン等の防虫成分とともに、ノニオン系界面活性剤等の乳化剤又は可溶化剤を配合してなる防虫溶液を用いて繊維を処理し、該繊維に防虫成分を保持させること、及び、上記防虫溶液の処理と同時にしくはその後にポリアクリル酸等のバインダーを該繊維へ処理することが記載されている。フェノトリンは、本願の実施例において使用している害虫行動攪乱誘発剤である、3-フェノキシルベンジルクリサンテメートと同一の物質であるから、請求の範囲1-4, 6, 7, 9は、新規性及び進歩性を有しない。

なお、本願発明における「害虫の行動錯乱作用を誘発する」なる事項は、防虫成分が通常有している機能を単に明示したものにすぎないから、この点を相違点とすることはできない。

文献2 (特許請求の範囲, [0001], [0004], [0007], [0010]) には、耐久性のある抗菌性を有する繊維製品を提供するために、繊維製品を抗菌成分、ポリアクリル酸等のポリカルボン酸、及びカルボジイミド系架橋剤等の架橋剤で処理すること、並びに処理剤は水に溶解、乳化又は分散させて用いること、及び乳化剤としてノニオン性の界面活性剤が使用できることが記載されている。よって、文献1に記載された繊維の防虫成分の保持性を向上させるために、文献1に記載されたバインダーに、さらにカルボジイミド系架橋剤を含有させることは、当業者が容易になし得ることである。

よって、請求の範囲5, 8は、進歩性を有しない。